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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,045	01/24/2002	Menno Hazenkamp	HF/5-22053/A/PCT	2753

324 7590 03/02/2004

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EXAMINER	
DELCOTTO, GREGORY R	
ART UNIT	**PAPER NUMBER**
1751	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/048,045	HAZENKAMP ET AL.	
	Examiner	Art Unit	
	Gregory R. Del Cotto	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 16-30 are pending. Note that, Applicant's amendments and arguments filed 11/19/03 have been entered.

Applicant's election with traverse of Formula I in the response received 11/19/03 is acknowledged. The traversal is on the ground(s) that the generic invention is allowable regardless of the species and that there clearly is a technical relationship among the inventions since theyinvolve one or more of the same or corresponding technical features. This is not found persuasive because the Examiner maintains that the species are not obvious variants.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Objections/Rejections Withdrawn

2. The following objections/rejections as set forth in the Office action mailed 7/18/03 have been withdrawn:

The rejection of claims 16-30 under 35 USC 112, second paragraph, has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 630,964, EP 902,083, or Bacher et al (US 5,965,506).

'964 teach a process for inhibiting the reabsorption of migrating dyes in the wash liquor comprising introducing into a wash liquor containing a peroxide-containing detergent, from0.5 to 150, preferably from 1.5 to 75 mg per liter of wash liquor, of a manganese compound which encompasses manganese compounds having the same formula as formula (1) as recited by the instant claims. See Abstract. '964 also teach a detergent composition containing 5 to 90% of anionic surfactant and/or nonionic surfactant, 5 to 70% of a builder, 0.1 to 30% of a peroxide and 0.005 to 2% by weight of a manganese compound. The detergent may be formulated as a solid; preferably, the detergent is in powder or granulate form. See page 3, lines 20-65. The nonionic

surfactant may be a condensate of ethylene oxide with a C9-C15 primary alcohol having 3 to 8 moles of ethylene oxide per mole. A particularly preferred detergent co-additive is a polymer known to be useful in preventing the transfer of labile dyes between fabrics such as polyvinyl pyrrolidones. See page 5, lines 40-60

Bacher et al teach a fabric bleaching composition comprising a peroxy compound and a specified and a specified manganese complex. See Abstract. Note that, Bacher teaches the same manganese complexes as recited by formula (1) of the instant claims. See column 3, line 1 to column 8, line 69. Additionally, the bleaching compositions also comprise a surfactant and a detergent builder. The anionic surfactant may be a sulphate, a sulphonate, or carboxylate. The nonionic surfactant may be a condensate of ethylene oxide with a C9-C15 primary alcohol having 3 to 8 moles of ethylene oxide per mole. A particularly preferred detergent co-additive is a polymer known to be useful in preventing the transfer of labile dyes between fabrics such as polyvinyl pyrrolidones. The fabric bleaching composition may be formulated as a solid, preferably in powder or granulate form. See column 11, lines 30-60.

'083 teaches a process for inhibiting the reabsorption of migrating dyes in the wash liquor comprising introducing into a wash liquor containing a peroxide-containing detergent, from0.5 to 150, preferably from 1.5 to 75 mg per liter of wash liquor, of a manganese compound which encompasses manganese compounds having the same formula as formula (1) as recited by the instant claims. See Abstract. '083 also teach a detergent composition containing 5 to 90% of anionic surfactant and/or nonionic surfactant, 5 to 70% of a builder, 0.1 to 30% of a peroxide and 0.005 to 2% by weight of

a manganese compound. The detergent may be formulated as a solid; preferably, the detergent is in powder or granulate form. See page 6, lines 15-50. The nonionic surfactant may be a condensate of ethylene oxide with a C9-C15 primary alcohol having 3 to 8 moles of ethylene oxide per mole. See column 6, lines 45-65. A particularly preferred detergent co-additive is a polymer known to be useful in preventing the transfer of labile dyes between fabrics such as polyvinyl pyrrolidones. See column 7, lines 30-60.

Note that, all three references teach examples in which the granules exemplified contain water. Additionally, the Examiner asserts that the powders or granules as taught by '964, Bacher et al, or EP 902,083 would encompass the granules as taught by claim 16 or 30. Note that, both claims recite "comprising" which would allow the inclusion of all other ingredients.

'964, Bacher et al, or EP 902,083 do not specifically teach a granule containing a water-soluble salen-type manganese complex, a dissolution restrainer and composition containing said granules along with surfactant, builder, peroxide and the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a granule containing a water-soluble manganese complex, a dissolution restrainer and composition containing said granules along with surfactant, builder, peroxide and the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation

of success and similar results with respect to other disclosed components, because the broad teachings of '964, Bacher et al, or EP 902,083 suggest a granule containing a water-soluble manganese complex, a dissolution restrainer and composition containing said granules along with surfactant, builder, peroxide and the other requisite components of the composition in the specific proportions as recited by the instant claims.

Response to Arguments

With respect to EP 630,964, EP 902,083 or Bacher et al, Applicant states that the difference between the cited prior art documents and the present application is the fact that the prior art discloses detergent granules and wash liquors containing them. Additionally, Applicant states that the disadvantages of the prior art and the unobvious advantages of the present invention are listed in the description on page 1. In response, note that, the Examiner maintains that there is no distinction between the compositions suggested by the prior art and the compositions as recited by the instant claims. The prior teaches solid and granule compositions as recited by the instant claims.

Further, Applicant states that the examples in the specification must be considered in reaching a conclusion as to whether the claimed invention as a whole would have been obvious. In response, note that, the Examiner asserts that the examples in the specification are not sufficient to overcome the prior art rejections as set forth above; the data does not show the unexpected and superior properties of the

claimed invention in comparison to compositions falling outside the scope of the instant claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (703) 308-2519. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Gregory R. Del Cotto
Primary Examiner
Art Unit 1751

GRD
February 23, 2004